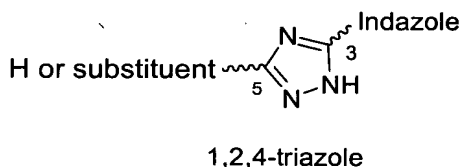


REMARKS

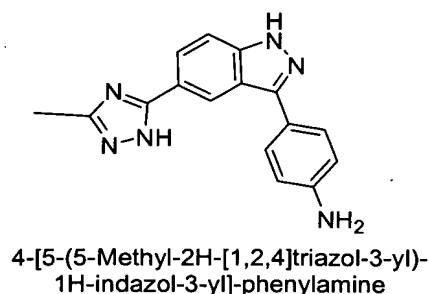
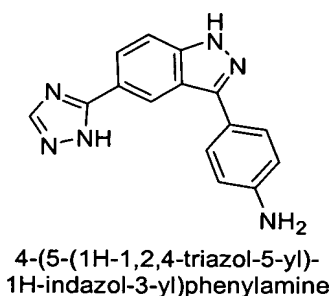
Claims 6, 10-12, 18-20, 74, 85, 89-92, 98-100, 104-109 and 114-117 are presently pending. Claims 5, 13, 22-69, 71-73, 75-84, 86-88, 93, 101, 102, 118 and 119 have been canceled without prejudice. The Advisory Action mailed February 27, 2004 indicated that the amendments set forth in the Reply to Final Office Action Under 37 C.F.R. § 1.116 filed in the United States Patent and Trademark Office on January 30, 2004 (the "January 30, 2004 Reply") were not entered. To expedite prosecution but without acquiescing in any rejection, Applicants have canceled claims 5, 13, 73, 88, 93, 103, 110, 118 and 119 which were amended in the January 30, 2004 Reply. Applicants fully incorporate the arguments set forth in the January 30, 2004 Reply, as well as all papers submitted therewith, into the present response. No new matter has been added. Applicants reserve the right to prosecute the subject matter of any canceled or amended claim or any other unclaimed subject matter in one or more continuation, divisional or continuation-in-part applications.

Applicants thank the Examiner for extending the courtesy of informal telephonic interviews on March 10, 2004 and March 12, 2004 in connection with the above-identified application.

In view of the telephonic interview of March 12, 2004, Applicants take this opportunity to clarify the phrase "3-triazolyl, optionally substituted at its 5-position" as recited in claim 18. This language refers to a moiety having the formula:



wherein C-3 of the 1,2,4-triazole moiety is bonded to the indazole core structure and C-5 of the 1,2,4-triazole moiety is bonded to hydrogen or to a substituent. The 1,2,4-triazole moiety can exist in different resonance forms which are illustrated in the examples set forth in the specification. Depending on whether or not the 1,2,4-triazole moiety is substituted or the particular resonance form drawn, the naming of the compounds (*e.g.*, 1,2,4-triazol-5-yl or 1,2,4-triazol-3-yl) can vary, as illustrated below.



Applicants have reviewed claim 114 and believe that all compounds recited in claim 114 are those wherein R₂ is 3-triazolyl, optionally substituted at its 5-position, as recited in claim 18 from which claim 114 depends.

Applicants have also reviewed claim 115, which depends from claim 19, and believe that all compounds recited in claim 115 are those wherein R₂ is tetrazole as recited in claim 19.

Applicants have also reviewed claim 116, which depends from claim 20, and believe that the compound recited in claim 116 is that wherein R₂ is imidazole as recited in claim 20.

Accordingly, as discussed with the Examiner on March 10, 2004, Applicants believe that the presently rejected claims are not anticipated by or obvious over U.S. Publication No. 2002/0161022 A1 (now U.S. Patent No. 6,555,539) by Reich *et al.* ("Reich") and are in condition for allowance. In particular, as discussed with the Examiner, Applicants believe that the presently rejected claims are not obvious over Reich in view of the Federal Circuit's holding that the disclosure of a chemical genus does not render obvious any compound falling within the genus, particularly when the disclosure indicates a preference leading away from the claimed compounds. *In re Baird*, 16 F.3d 380, 382-383 (Fed. Cir. 1994).

Accordingly, in view of the January 30, 2004 Reply and the informal telephonic interviews on March 10, 2004 and March 12, 2004 with the Examiner, Applicants respectfully submit that the rejection of claims 18-20, 71, 72, 74, 85, 98-100, 104, 105 and 114-116 under 35 U.S.C. § 103(a) has been overcome and must be withdrawn.

Conclusion

Applicants respectfully request that the present amendments be entered and the present remarks be made of record in the file history of the present application. An early allowance of the application is earnestly requested. The Examiner is invited to call the undersigned with any questions concerning the foregoing.

Applicants believe that the only fees due are those for the Petition for Extension of Time Under 37 C.F.R. § 1.136(a) (1 month); however, in the event any additional fee(s) is required, please charge the required fee(s) to Jones Day Deposit Account No. 503013.

Respectfully submitted,

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Date: April 27, 2004

By: *Michael D. Spun, Reg. No. 47,458* 35,203
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